

## APPROVED MINUTES

### KITTERY TOWN COUNCIL

July 23, 2012

COUNCIL CHAMBERS

1. Call to Order

Vice Chairperson Dow called the meeting to order at 7:00 P.M.

2. Introductory

Vice Chair Dow read the introductory.

3. Pledge of Allegiance

Vice Chair Dow led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Vice Chairperson George Dow, Councilors Frank Dennett, Gary Beers, Jeffrey Thomson and Jeffrey Pelletier.

5. Agenda Amendment and Adoption –

Town Manager Markel asked that a new item J be added under new business to appoint Maryann Place as the acting town manager from August 1<sup>st</sup> – August 2<sup>nd</sup>. The agenda was accepted as amended.

6. Acceptance of Previous Minutes – None

7. Interviews for the Board of Appeals – None

8. PUBLIC HEARINGS -

a. (070312-1) The Kittery Town Council moves to hold a public hearing to ordain an ordinance to transfer FY '12 unencumbered appropriation balances and surplus revenue from one department, office, or agency, to another, and to encumber certain FY'12 appropriation balances and carry forward these funds for the purposes designated and in the amounts presented, in accordance with Town Charter 6.09(4).

Vice Chair Dow indicated that this public hearing was advertised in the Portsmouth Herald on July 13, 2012. Vice Chair Dow then opened the public hearing, and no response being heard, closed the public hearing.

**COUNCILOR BEERS MOVED IN ACCORDANCE WITH TITLE 30-A, MRS 3001 AND TOWN CHARTER SECTIONS 2.07(3), 2.14 AND 6.09(4), THAT THE KITTERY TOWN COUNCIL HEREBY ORDAINS AN ORDINANCE BASED UPON A**

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**WRITTEN REQUEST BY THE TOWN MANAGER TO TRANSFER AND ENCUMBER CERTAIN FY '12 APPROPRIATION BALANCES AND SURPLUS REVENUE FROM ONE DEPARTMENT, OFFICE OR AGENCY TO ANOTHER, IN THE AMOUNT OF \$274,377 AS PRESENTED, SECONDED BY COUNCILOR THOMSON.**

Councilor Beers indicated that it was his understanding that \$130,210 relative to the police retirement account did not need to be transferred which Town Manager Markel indicated was correct.

**COUNCILOR BEERS MOVED TO AMEND THE MAIN MOTION TO INDICATE THE AMOUNT OF \$144,176 TO BE TRANSFERRED FROM THE OVERLAY AND THE REMAINING \$130,201 SHOULD BE TRANSFERRED TO THE UNENCUMBERED SURPLUS, SECONDED BY COUNCILOR THOMSON.**

Councilor Beers indicated that the funds from the GA revenue account were not a legitimate transfer and should be left out and the \$18,991 should be taken from the \$130,201 which would show the transfer from overlay at \$111,229 to the general fund. This would allocate \$144,167 to transfers and \$112,299 to unencumbered surplus. He continued the \$18,991 should not count toward the total and the amended total should be \$255,396.

**COUNCILOR BEERS MOVED TO AMEND THE AMENDMENT TO ALLOCATE \$144,167 TO TRANSFERS AND TO TRANSFER 112,299 TO THE UNENCUMBERED SURPLUS ADDING UP TO A TOTAL OF \$255,396, SECONDED BY COUNCILOR THOMSON.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

**A ROLL CALL WAS TAKEN ON THE AMENDMENT WITH ALL IN FAVOR. MOTION PASSES 5/0.**

**A ROLL CALL WAS TAKEN ON THE MAIN MOTION WITH ALL IN FAVOR. MOTION PASSES 5/0.**

b. (070312-2) The Kittery Town Council moves to hold a public hearing to ordain an ordinance to authorize the execution of a multi-year contract, "Waste Hauling Agreement", between the Town of Kittery and Eco Maine, 64 Blueberry Road, Portland, ME 04102, in accordance with Section 6.11(2) of the Kittery Town Charter.

Town Manager Markel indicated the DPW has been in the process of contracting for waste hauling and has recommended that the Town sign a contract with Eco Maine who was the lowest qualified bidder.

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**COUNCILOR BEERS MOVED TO AUTHORIZE THE EXECUTION OF A MULTI-YEAR CONTRACT, “WASTE HAULING AGREEMENT” BETWEEN THE TOWN OF KITTERY AND ECO MAINE, 64 BLUEBERRY ROAD, PORTLAND, ME 04102, SECONDED BY COUNCILOR PELLETIER.**

**COUNCILOR DENNETT MOVED TO AMEND THE MAIN MOTION TO CHANGE THE WORDING ON PAGE 5(B)(1) TO READ “THIS AGREEMENT HAS BEEN APPROVED BY THE TOWN COUNCIL OF THE MUNICIPALITY WITH EXECUTION AND DELIVERY TO BE EFFECTED BY THE TOWN MANAGER”, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

**A ROLL CALL VOTE WAS TAKEN ON THE AMENDMENT WITH ALL IN FAVOR. MOTION PASSES 5/0.**

c. (070312-3) The Kittery Town Council moves to hold a public hearing to ordain an ordinance to transfer budget amounts from certain municipal department major medical accounts to other accounts, in accordance with Section 6.09(4) of the Kittery Town Charter.

Vice Chair Dow indicated that it has been requested that this item be postponed until 8/15 as it was not advertised in a timely manner.

9. DISCUSSION

a. Discussion by members of the public (three minutes per person) –

Robert Harris came to the podium and asked how many millions the Town had out in bonds, what the interest rates were and how long until they are paid off.

Town Manager Markel responded that he would provide Mr. Harris with that information.

b. Chairperson’s response to public – None

10. UNFINISHED BUSINESS –

a. (070212-1) The Kittery Town Council moves to ordain an ordinance to reconcile various capital program and special revenue accounts and transfer funds to other accounts, in accordance with the Kittery Town Charter Section 6.09(4).

**COUNCILOR BEERS MOVED THAT THE TOWN OF KITTERY IN ACCORDANCE WITH TITLE 30-A, MRS 3001, AND TOWN CHARTER SECTIONS**

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**2.07(3), 2.14 AND 6.10, HEREBY ORDAIN AN ORDINANCE BASED UPON A WRITTEN REQUEST BY THE TOWN MANAGER TO RECONCILE VARIOUS CAPITAL PROGRAMS AND SPECIAL REVENUE DEDICATED RESERVE ACCOUNTS IN ACCORDANCE WITH TOWN CHARTER SECTION 6.09(4), AS PRESENTED, AND TRANSFER REMAINING FUNDS IN THE AMOUNT OF \$124,961 TO THE SPECIAL RESERVE ACCOUNT #750, COMPENSATED ABSENCES, SECONDED BY COUNCILOR PELLETIER.**

Town Manager Markel went through all of the accounts that were going to be closed, transferred, consolidated, renamed or opened.

**COUNCILOR BEERS MOVED TO AMEND THE MAIN MOTION TO ADD AFTER THE WORDS AS PRESENTED, CAPITAL PROJECTS AND SPECIAL REVENUE ACCOUNT S #304, 305, 614, 621, 622, 627, 630, 714, 724, 725, 726, 730, 742, 749, 770, 812, 818, 275, 612, 615, 640, 645, 712, 743, 744, 745,747, 748, 752, 753, 754, 757, 759, 763, 765, 771, 775, 776, 777, 782, 791, 798 BE CLOSED AND ALL RESIDUAL FUNDS TO BE TRANSFERRED TO ACCOUNT #750, COMPENSATED BALANCES, SECONDED BY COUNCILOR THOMSON.**

**A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

**A ROLL CALL WAS TAKEN ON THE MAIN MOTION WITH ALL IN FAVOR. MOTION PASSES 5/0.**

**COUNCILOR BEERS MOVED TO TRANSFER FUNDS FROM ACCOUNT #750, COMPENSATED BALANCES, TO OFFSET DEFICITS AND THEN CLOSE THE FOLLOWING ACCOUNTS: #720, 721, 722, 728, 746, 762, 772, 774, 780, 799 WITH TRANSFERS TOTALING \$41,832 AND TO TRANSFER FUNDS FROM ACCOUNT #750, COMPENSATED BALANCES TO OFFSET DEFICITS IN THE AMOUNT OF \$23,051 IN ACCOUNTS #740 AND 795 WHICH WILL REMAIN OPEN; AND TO TRANSFER SPECIAL REVENUE ACCOUNTS #761, 790 AND 794 TO CAPITAL PROJECTS AND TRANSFER CAPITAL PROJECTS ACCOUNTS #618 AND 723 TO SPECIAL REVENUE, AND TO TRANSFER CAPITAL PROJECTS ACCOUNT #792 TO PERMANENT FUNDS; AND TO CONSOLIDATE ACCOUNT #742 INTO ACCOUNT #617; AND TO RENAME ACCOUNTS #306, 313, 613, 729, 604 AND 611 AS RECOMMENDED BY THE TOWN MANAGER; AND TO CREATE A NEW ACCOUNT #820 FOR THE BIG PROJECT GRANT MATCH ACCOUNT, SECONDED BY COUNCILOR PELLETIER.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

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### 11. NEW BUSINESS

a. (070312-4) The Kittery Town Council moves to schedule a public hearing to ordain an ordinance to authorize the execution of a multi-year contract, "CodeRed Services Agreement" between Emergency Communications Network, LLC and the Town of Kittery in accordance with Section 6.11(2) of the Kittery Town Charter.

**COUNCILOR THOMSON MOVED TO SCHEDULE A PUBLIC HEARING TO ORDAIN AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A MULTI-YEAR CONTRACT, "CODERED SERVICES AGREEMENT" BETWEEN EMERGENCY COMMUNICATIONS NETWORK, LLC AND THE TOWN OF KITTERY ON AUGUST 13, 2012, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

b. (070312-5) The Kittery Town Council moves to schedule a public hearing to ordain an ordinance to authorize the execution of a multi-year contract, "Solids Disposal Hauling Contract" between Soil Preparation, Inc. and the Town of Kittery Sewer Department in accordance with Section 6.11(2) of the Kittery Town Charter.

**COUNCILOR THOMSON MOVED TO SCHEDULE A PUBLIC HEARING TO ORDAIN AN ORDINANCE TO AUTHORIZE EXECUTION OF A MULTI-YEAR CONTRACT, "SOLIDS DISPOSAL HAULING CONTRACT" BETWEEN SOIL PREPARATION, INC. AND THE TOWN OF KITTERY SEWER DEPARTMENT ON AUGUST 13, 2012, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

c. (070312-6) The Kittery Town Council moves to approve the Kittery Sewer Department FY'13 Budget in the amount of \$2,198,806.27 in accordance with the Kittery Town Charter Section 6.06(2) as presented.

**COUNCILOR BEERS MOVED TO APPROVE THE KITTERY SEWER DEPARTMENT FY '13 BUDGET IN THE AMOUNT OF \$2,198,806.27 AS PRESENTED, SECONDED BY COUNCILOR PELLETIER.**

Councilor Dennett indicated that he had a lot of problems with the budget that would need to be changed before it could be approved.

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**COUNCILOR THOMSON MOVED TO POSTPONE ACTION PENDING CORRECTIONS FOR ACTION AT A SPECIAL MEETING ON JULY 30, 2012, SECONDED BY COUNCILOR DENNETT.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

d. (070312-7) The Kittery Town Council moves to approve the disbursement warrants.

**COUNCILOR THOMSON MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR PELLETIER.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

e. (070312-8) The Kittery Town Council moves to appoint Jean Lincoln to the Kittery Community Center at Frisbee Common Board of Directors as a community development representative until 5/30/15.

**COUNCILOR THOMSON MOVED TO APPOINT JEAN LINCOLN TO THE KITTERY COMMUNITY CENTER AT FRISBEE COMMON BOARD OF DIRECTORS AS A COMMUNITY DEVELOPMENT REPRESENTATIVE UNTIL 5/30/15, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

f. (070312-9) The Kittery Town Council moves to schedule a public hearing for the purchase of a new Two Ram Baler, American Baler Model 4020XP-75 for the Solid Waste Facility using a five year lease agreement.

**COUNCILOR DENNETT MOVED TO SCHEDULE A PUBLIC HEARING FOR THE PURCHASE OF A NEW TWO RAM BALER, AMERICAN BALER MODEL 4020XP-75 FOR THE SOLID WASTE FACILITY USING A FIVE YEAR LEASE AGREEMENT ON AUGUST 13, 2012, SECONDED BY COUNCILOR PELLETIER.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

g. (070312-10) The Kittery Town Council moves to approve proposed amendments to the Kittery Recycling Center Scholarship Rules and Regulations as presented.

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**COUNCILOR BEERS MOVED TO APPROVE PROPOSED AMENDMENTS TO THE KITTERY RECYCLING CENTER SCHOLARSHIP RULES AND REGULATIONS AS PRESENTED, SECONDED BY COUNCILOR PELLETIER.**

**COUNCILOR DENNETT MOVED TO AMEND THE MAIN MOTION TO CHANGE THE WORD “SHALL” TO “MAY” ON PAGE 2, 4<sup>TH</sup> PARAGRAPH, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

**A ROLL CALL VOTE WAS TAKEN ON THE MAIN MOTION WITH ALL IN FAVOR. MOTION PASSES 5/0.**

h. (070312-11) The Kittery Town Council moves to schedule a public hearing to amend Title 16 Part 1 – Article XI Cluster Residential and Cluster Mixed-Use Development and Part 2 – Chapter 16.2 Definitions and Article II, Zone Definitions, Uses of the Kittery Town Code.

**COUNCILOR THOMSON MOVED TO SCHEDULE A PUBLIC HEARING TO AMEND TITLE 16 PART 1 – ARTICLE CLUSTER RESIDENTIAL AND CLUSTER MIXED-USE DEVELOPMENT AND PART 2 – CHAPTER 16.2 DEFINITIONS AND ARTICLE II, ZONE DEFINITIONS, USES OF THE KITTERY TOWN CODE ON AUGUST 27, 2012, SECONDED BY COUNCILOR PELLETIER.**

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR BEERS ABSTAINED. MOTION PASSES 4/0/1.**

i. (070312-12) The Kittery Town Council moves to schedule a public hearing to amend Title 16 of the Kittery Town Code to address miscellaneous corrections and updates.

**COUNCILOR THOMSON MOVED TO SCHEDULE A PUBLIC HEARING TO AMEND TITLE 16 OF THE KITTERY TOWN CODE TO ADDRESS MISCELLANEOUS CORRECTIONS AND UPDATES ON AUGUST 27, 2012, SECONDED BY COUNCILOR PELLETIER.**

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR BEERS ABSTAINED. MOTION PASSES 4/0/1.**

j. (070312-13) The Kittery Town Council moves to appoint Maryann Place as acting Town Manager from August 1-2, 2012.

**COUNCILOR THOMSON MOVED TO APPOINT MARYANN PLACE AS ACTING TOWN MANAGER FROM AUGUST 1-2, 2012, SECONDED BY COUNCILOR PELLETIER.**

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**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

### 12. COUNCILOR ISSUES OR COMMENT

Councilor Dennett indicated that there was an article relative to the breach of Falmouth's website. He continued that residents' email addresses had been given out and if Kittery residents did not want their email on a public domain, they should not sign up for notifications from the town.

Councilor Thomson asked to see a report on the condemned property on Route 236.

Councilor Thomson indicated that there recently had been some signage put up by the town that was public signage. He asked what the policy was on having a private citizen having the DPW take an action for them. He continued these signs were put up without notifying the neighbors and the DPW director had said she was going to speak to them but has not done so.

Councilor Beers noted that the town attorney had concluded that in order to avoid having to hold a special election he must be removed from Council prior to August 15<sup>th</sup>. He continued he would continue to serve on the Thresher Memorial Committee as a citizen but that Council would need to appoint a liaison. Councilor Beers indicated he would be willing to continue on the Eliot Sewer Committee as a Council appointee.

Councilor Beers expressed his gratitude to the Kittery Fire Department during the recent fire. He continued they were able to prevent significant damage and the residents were very grateful.

### 13. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson - None
- b. Town Manager's Report

Town Manager Markel stated he anticipated some movement on a regional initiative in the next month.

Town Manager Markel indicated that the library trustees met with to discuss fundraising towards building a new library and that they wanted to double the size of the current building.

Town Manager Markel noted the York County Managers had met to discuss what non-profits should be supported but no conclusion had been made.

Town Manager Markel stated that over the past few months he had a lot of email communications with the ME DOT, NH DOT and the Coast Guard relative to the raising on the



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Sarah Long Bridge. He continued they concluded they were able to change the schedule of lifting the bridge but that it would take about six months.

### c. Committee Reports –

Councilor Beers indicated that he had met relative to the Eliot Sewer issue the previous week and Eliot had concluded that they could not change the agreement without bringing it to the voters. He continued the Board of Selectman favored the current agreement and were prepared to take it to the voters by special meeting as soon as possible.

### 14. ADJOURNMENT

COUNCILOR BEERS MOVED TO ADJOURN, SECONDED BY COUNCILOR PELLETIER WITH ALL IN FAVOR. MEETING ADJOURNED AT 9:08 P.M.